

IC 12-28-5

Chapter 5. Community Residential Facilities Council

IC 12-28-5-1

Council defined

Sec. 1. As used in this chapter, "council" refers to the community residential facilities council established by this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-2

Community residential facilities council; membership; financial interests

Sec. 2. (a) The community residential facilities council is established. The council consists of the following members appointed by the governor:

- (1) One (1) professional possessing specialized training in the field of human development.
- (2) One (1) member of the professional staff of the division of disability, aging, and rehabilitative services.
- (3) One (1) member of the professional staff of the office of Medicaid policy and planning.
- (4) One (1) member of the professional staff of the state department of health.
- (5) One (1) individual possessing a special interest in developmentally disabled individuals.
- (6) One (1) individual possessing a special interest in mentally ill individuals.
- (7) One (1) individual who is the chief executive officer of a facility providing both day services and residential services for developmentally disabled individuals.
- (8) One (1) individual who is the chief executive officer of a facility providing residential services only for developmentally disabled individuals.
- (9) One (1) individual who is a member of the professional staff of the Indiana protection and advocacy services commission. The individual appointed under this subdivision is an ex officio member of the council.
- (10) One (1) individual who is the chief executive officer of an entity providing only supported living services.
- (11) One (1) individual who is receiving services through the bureau of developmental disabilities services.
- (12) Two (2) members of the public. One (1) member appointed under this subdivision may be a member of a representative organization of state employees.

(b) Except for the members designated by subsection (a)(7), (a)(8), and (a)(10), a member of the council may not have an indirect or a direct financial interest in a residential facility for the developmentally disabled.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.5; P.L.4-1993, SEC.214; P.L.5-1993, SEC.227; P.L.111-1997, SEC.5;

P.L.272-1999, SEC.49; P.L.263-2001, SEC.1.

IC 12-28-5-3

Term of office; reappointment

Sec. 3. The term of each member of the council is four (4) years. Except for the members listed in section 2(a)(7), 2(a)(8), and 2(a)(10) of this chapter, members of the council may be reappointed. *As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.6; P.L.263-2001, SEC.2.*

IC 12-28-5-4

Vacancies

Sec. 4. A vacancy occurring before the expiration of a term shall be filled by the governor with the same type of individual that vacated the office. *As added by P.L.2-1992, SEC.22.*

IC 12-28-5-5

Removal for cause

Sec. 5. A member may be removed only for cause. *As added by P.L.2-1992, SEC.22.*

IC 12-28-5-6

Community residential facilities council; presiding officer appointment

Sec. 6. The governor shall appoint a member of the council to serve as presiding officer of the council. *As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.7.*

IC 12-28-5-7

Quarterly meetings; additional meetings

Sec. 7. The council:
 (1) shall meet at least quarterly; and
 (2) may meet more often than quarterly if necessary, but not more often than monthly.
Only the presiding officer may call additional meetings. *As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.8; P.L.263-2001, SEC.3.*

IC 12-28-5-8

Quorum

Sec. 8. A majority of the members must be present to have a quorum. *As added by P.L.2-1992, SEC.22.*

IC 12-28-5-9

Per diem; reimbursement of expenses

Sec. 9. Each member of the council who is not a state employee is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b) for each day spent on the official business of the

council and to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-10

Duties

Sec. 10. In conjunction with the division of disability, aging, and rehabilitative services, the council shall do the following:

- (1) Determine the current and projected needs of each geographic area of Indiana for residential services for developmentally disabled individuals.
- (2) Determine how the provision of developmental or vocational services for residents in these geographic areas affects the availability of developmental or vocational services to developmentally disabled individuals living in their own homes.
- (3) Develop standards for licensure of supervised group living facilities regarding the following:
 - (A) A sanitary and safe environment for residents and employees.
 - (B) Classification of supervised group living facilities.
 - (C) Any other matters that will ensure that the residents will receive a residential environment.
- (4) Develop standards for the approval of entities providing supported living services.
- (5) Recommend social and habilitation programs to the Indiana health facilities council for developmentally disabled individuals who reside in health facilities licensed under IC 16-28.
- (6) Develop and update semiannually a report that identifies the numbers of developmentally disabled individuals who live in health facilities licensed under IC 16-28. The Indiana health facilities council shall assist in developing and updating this report.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.9; P.L.2-1993, SEC.116; P.L.4-1993, SEC.215; P.L.5-1993, SEC.228; P.L.6-1995, SEC.29; P.L.255-1996, SEC.8; P.L.263-2001, SEC.4.

IC 12-28-5-11

License required for supervised group living facilities

Sec. 11. (a) A supervised group living facility must have a license or provisional license issued under this chapter to operate.

(b) An entity that provides supported living services must be approved by the council under this chapter to operate.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.30; P.L.263-2001, SEC.5.

IC 12-28-5-12

Supervised group living facility entitled to license; location

Sec. 12. (a) The council may license only those supervised group living facilities that:

- (1) meet the standards established under section 10 of this chapter; and
- (2) are necessary to provide adequate services to developmentally disabled individuals in that geographic area.

(b) A supervised group living facility described in subsection (c) may locate in only one (1) of the following counties:

- (1) A county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand two hundred (27,200).
- (2) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).
- (3) A county having a population of more than fifty thousand (50,000) but less than fifty-five thousand (55,000).

(c) Notwithstanding 431 IAC 1.1-3-7(c) and 431 IAC 1.1-3-7(d), the council shall license one (1) supervised group living facility that is located less than one thousand (1,000) feet from another supervised group living facility or a sheltered workshop under the following conditions:

- (1) Both of the supervised group living facilities meet all standards for licensure as provided in section 10(3) of this chapter.
- (2) Both of the supervised group living facilities are built on land that is owned by one (1) private entity.
- (3) The community formed by the supervised group living facilities provides job opportunities for residents of the supervised group living facilities.

(d) The council may approve an entity to provide supported living services only if the entity meets the standards established under section 10 of this chapter.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.31; P.L.255-1996, SEC.9; P.L.6-1998, SEC.1; P.L.263-2001, SEC.6; P.L.170-2002, SEC.83.

IC 12-28-5-13

Revocation of license; hearing

Sec. 13. The council may revoke:

- (1) the license of a supervised group living facility; or
- (2) the approval of an entity that provides supported living services;

that no longer meets the standards established under section 10 of this chapter after following the procedures prescribed by IC 4-21.5-3. If a hearing is provided for or authorized to be held by the council, the council may designate a person as its agent or representative to conduct a hearing. The agent or representative shall conduct the hearing under IC 4-21.5-3.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.32; P.L.263-2001, SEC.7.

IC 12-28-5-14

Provisional license

Sec. 14. (a) The council may issue a provisional license to a facility that does not qualify for a license under section 12 of this chapter but that provides satisfactory evidence that the facility will qualify within a period prescribed by the council. The period may not exceed six (6) months.

(b) The council may issue provisional approval to an entity providing supported living services that does not qualify for approval under section 12 of this chapter but that provides satisfactory evidence that the entity will qualify within a period prescribed by the council. The period may not exceed six (6) months.

As added by P.L.2-1992, SEC.22. Amended by P.L.263-2001, SEC.8.

IC 12-28-5-15

Staff; supervised group living facility review; agency assistance

Sec. 15. The division of disability, aging, and rehabilitative services shall provide the staff for the council to accomplish the council's functions. The council may require any other agency of state government to assist the council in performing a review of a supervised group living facility to determine if the supervised group living facility should be licensed.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.10; P.L.4-1993, SEC.216; P.L.5-1993, SEC.229; P.L.6-1995, SEC.33; P.L.255-1996, SEC.10.

IC 12-28-5-16

Division as primary state agency to plan and coordinate programs of supervised group living facilities and services

Sec. 16. The division of disability, aging, and rehabilitative services is the primary state agency responsible for planning, developing, coordinating, and implementing the plan and program of supervised group living facilities and services, including developmental and vocational services, needed for developmentally disabled individuals residing in those facilities. Other state agencies authorized by law or rule to carry out activities and control money that have a direct bearing upon the provision of supervised group living services shall enter into memoranda of understanding or contracts with the division of disability, aging, and rehabilitative services to ensure a coordinated utilization of resources and responsibilities.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.217; P.L.5-1993, SEC.230; P.L.6-1995, SEC.34.

IC 12-28-5-17

Inspection of facilities

Sec. 17. The inspection of a facility to determine its compliance

with state licensure standards shall be conducted, to the extent feasible, at the same time as the inspection to determine its compliance with federal standards.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-18 Repealed

(Repealed by P.L.111-1997, SEC.9.)

IC 12-28-5-19

Rules to implement chapter

Sec. 19. The council may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.23-1992, SEC.12.